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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Sarah Nathreen Nakanwagi,

10 Plaintiff,

11 v.

12 State of Arizona, et al.,

13 Defendant.
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No. CV-23-08610-PCT-MTL

ORDER

15 Plaintiff, pro se, sues the State of Arizona alleging various theories of liability
16 arising from the processing of her unemployment benefits. After screening Plaintiff's
17 Complaint under the *in forma pauperis* statute, 28 U.S.C. § 1915(e)(2), the Court ordered
18 her to file an amended complaint. Plaintiff did so, and she was then given permission to
19 serve the Amended Complaint on the State of Arizona.

20 The Amended Complaint does not separately allege the elements of specific claims
21 for relief, as it should. It instead consists of a lengthy narrative describing how Plaintiff
22 claims that she was harmed.

23 The State of Arizona moves to dismiss the Amended Complaint. The Court has
24 reviewed the motion briefing and finds that the arguments presented in the State of
25 Arizona's Motion to be well-taken. Specifically:

26 1. The State of Arizona enjoys immunity from suits against it in federal court.
27 U.S. Const. amend. XI. In the context of Plaintiff's allegations here, the State of Arizona
28 has not waived its immunity, nor has Congress done so. Plaintiff's claims against the State

1 of Arizona are thus barred by the Eleventh Amendment to the United States Constitution.
2 This immunity should be enough to grant the motion in full, *see* 28 U.S.C. § 1915(e)(2)(iii),
3 but for the sake of completeness, the Court addresses the remaining issues.

4 2. In her response opposing the Motion to Dismiss, Plaintiff contends that she
5 does not assert claims under the Civil Rights Act, 42 U.S.C. § 1983. The State of Arizona
6 argues in its reply brief that Plaintiff's assertions of constitutional violations must be
7 adjudicated under the remedy established by Congress in the Civil Rights Act. *See*
8 *Montoyama v. Haw. Dep't of Transp.*, 864 F. Supp. 2d 965, 992 (D. Haw. 2012). The Court
9 agrees with the State of Arizona, and it will therefore evaluate Plaintiff's constitutional
10 claims under § 1983. The State of Arizona is the only named defendant. Plaintiff cannot
11 assert a claim against the State of Arizona under the Civil Rights Act, 42 U.S.C. § 1983,
12 because the State is not a "person." *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71
13 (1989). These claims, therefore, must be dismissed.

14 3. Insofar as Plaintiff asserts claims under 42 U.S.C. § 1983 and Title II of the
15 Americans with Disabilities Act, those claims are barred by the applicable statute of
16 limitations. *Wilson v. Garcia*, 471 U.S. 261 (1985); *Sharkey v. O'Neal*, 778 F.3d 767 (9th
17 Cir. 2015). Borrowing the statute of limitations for personal injury actions under Arizona
18 law, the statute of limitations for these federal claims is two years. The State of Arizona's
19 Motion argues that the limitations period has expired because the last date of any alleged
20 injury is June 3, 2021 (Doc. 8 ¶ 32), but the initial complaint was filed over two years later,
21 on November 22, 2023, (Doc. 1). Plaintiff has not shown any legitimate reason why the
22 statute of limitations should be tolled. *See McCloud v. Ariz. Dep't of Pub. Safety*, 170 P.3d
23 691, 694 (Ariz. Ct. App. 2007). The Court thus finds that these claims are time-barred.

24 4. The Amended Complaint presents allegations in a narrative form using
25 conclusory and vague statements. The Court cannot tell which facts support individual
26 claims for relief. Due process requires that a complaint put the defending parties on fair
27 notice of the claims against them. A complaint, such as this one, asserting disjointed and
28 verbose facts in a scattershot manner puts the Court and the defendants in a difficult

1 position requiring guesswork and assumptions. An individualized analysis of Plaintiff's
 2 claims is unnecessary. The Court finds that the Amended Complaint, overall, fails to satisfy
 3 the minimum pleading standards of Rule 8, Fed. R. Civ. P. *See Bell Atl. Corp. v. Twombly*,
 4 550 U.S. 544 (2007); *Spewell v. Golden State Warriors*, 266 F.3d 979 (9th Cir. 2001).

5 5. Federal Rule of Civil Procedure 15(a) states that leave to amend should be
 6 freely granted "when justice so requires." Fed. R. Civ. P. 15(a)(2). "The power to grant
 7 leave to amend . . . is entrusted to the discretion of the district court, which 'determines the
 8 propriety of a motion to amend by ascertaining the presence of any of four factors: bad
 9 faith, undue delay, prejudice to the opposing party, and/or futility.'" *Serra v. Lappin*, 600
 10 F.3d 1191, 1200 (9th Cir. 2010) (quotation omitted). District courts properly deny leave to
 11 amend if the proposed amendment is futile or the amended complaint is subject to
 12 dismissal. *Saul v. United States*, 928 F.2d 829, 843 (9th Cir. 1991). Plaintiff has already
 13 had an opportunity to amend her complaint. Now, Plaintiff's Amended Complaint must be
 14 dismissed for the forgoing reasons. In particular, the Court notes that, even when liberally
 15 construing the Amended Complaint in Plaintiff's favor,* she cannot advance these claims
 16 against the State of Arizona due to its Eleventh Amendment sovereign immunity, the
 17 expiration of the statute of limitations, and that it is not a "person" under § 1983. These
 18 fatal defects cannot be cured, and so the Court will not grant her leave to amend. *See Zucco*
 19 *Partners, LLC v. Digimarc Corp.*, 552 F.3d 981, 1007 (9th Cir. 2009), *as amended* (Feb.
 20 10, 2009) (noting that the Court may deny leave to amend where amendment would be
 21 futile).

22 Accordingly,

23 **IT IS ORDERED** that Defendant's Motion to Dismiss (Doc. 20) is **granted**.

24 **IT IS FURTHER ORDERED** that Plaintiff's Amended Complaint (Doc. 8) is
 25 **dismissed with prejudice**.

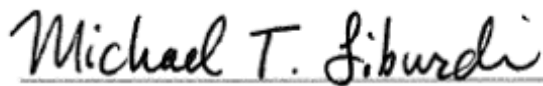
26 * The Court should construe pleadings of pro se litigants liberally, so that non-frivolous
 27 claims may have their day in court. *Rupert v. Bond*, 68 F. Supp. 3d 1142, 1153 (N.D. Cal.
 28 2014). With that understanding, however, "[f]ederal courts, including the Ninth Circuit,
 recognize the important goals served by lenient treatment of pro se litigants must
 necessarily yield to prejudice suffered by the courts and other parties." *VonGrabe v. Sprint*
PCS, 312 F. Supp. 2d 1313, 1319 (S.D. Cal. 2004).

1 **IT IS FURTHER ORDERED** that the docket will reflect that the Court, pursuant
2 to 28 U.S.C. § 1915(a)(3) and Federal Rules of Appellate Procedure 24(a)(3)(A), has
3 considered whether an appeal of this decision would be taken in good faith and finds
4 Plaintiff may not appeal in forma pauperis.

5 **IT IS FURTHER ORDERED** that, because oral argument would not aid in
6 resolving this matter, *see* LR Civ. 7.2(f), the July 19, 2024 oral argument is vacated.

7 **IT IS FINALLY ORDERED** that the Clerk of Court shall (1) enter judgment for
8 Defendant, (2) close this case, and (3) email a copy of this Order to Plaintiff at
9 sarahnathreen@gmail.com.

10 Dated this 15th day of July, 2024.

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14 Michael T. Liburdi
15 United States District Judge
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